

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

<b>CHIKEZIE OTTAH,</b>	:	<b>CASE NO. 1:11-cv-06187-RMB</b>
	:	
<b>PLAINTIFF,</b>	:	<b>[JUDGE RICHARD M. BERMAN]</b>
	:	
<b>VS.</b>	:	
	:	
<b>VERIFONE SYSTEMS, INC.,</b>	:	<b><u>DEFENDANT’S STATEMENT OF</u></b>
	:	<b><u>MATERIAL FACTS ON MOTION</u></b>
	:	<b><u>FOR SUMMARY JUDGMENT</u></b>
<b>DEFENDANT.</b>	:	<b><u>OF NON-INFRINGEMENT</u></b>
	:	

Pursuant to Local Civil Rule 56.1, Defendant VeriFone Systems, Inc. submits the following Statement of Material Facts on Motion for Summary Judgment.

**I. MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE TO BE TRIED**

1. The sole claim of U.S. Patent No. 7,152,840 (“the ’840 patent”) requires a book holder for removable attachment. (Declaration of Owen W. Dukelow (“Dukelow Decl.”), Exh. 1 [’840 patent] at claim 1.)

2. The claim of the ’840 patent further requires that the book holder includes a book support platform with a front surface and a plurality of clamps disposed on the front surface to engage and retain the book to the book support platform. (Dukelow Decl., Exh. 1 at claim 1.)

3. The claim of the ’840 patent further requires that the book holder also includes a clasp comprising a clip head, a clip body and a pair of resilient clip arms, clip arms adjustably mounted on the clip head, the clip head attached to the clip body. (Dukelow Decl., Exh. 1 at claim 1.) The specification explains that the clasp and the clips are for removably attaching the book holder to a mobile vehicle. (Dukelow Decl., Exh. 1 at 3:24-26.)

4. The claim of the '840 patent further requires that the book holder also includes an arm with a first end and a second end, with the clasp (see ¶ 3, above) on the first end of the arm and the second end of the arm pivotally attached to the book support platform (see ¶ 2, above).

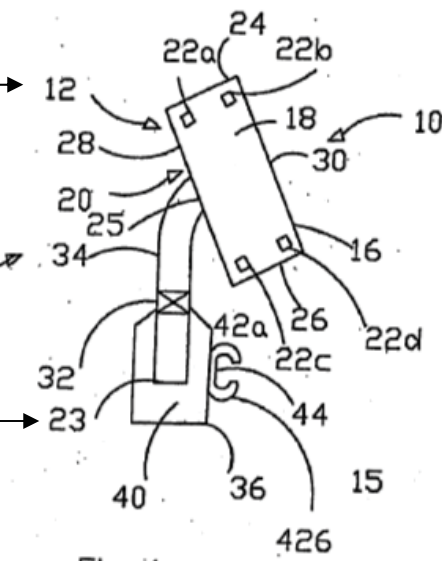
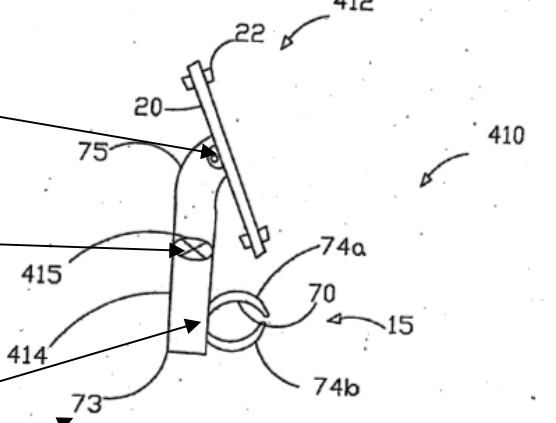
5. The claim of the '840 patent further requires that the book holder also includes a telescoping arrangement interconnecting the first and second ends of the arm. (Dukelow Decl., Exh. 1 at claim 1.)

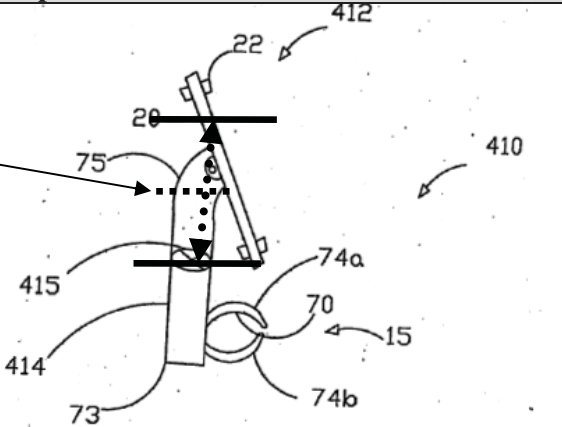
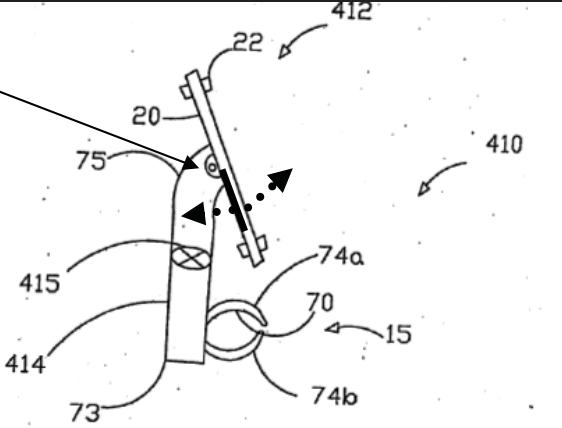
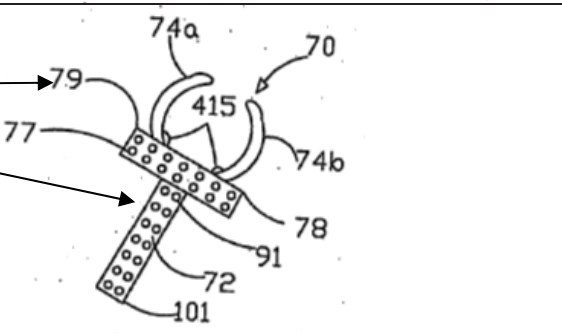
6. The claim of the '840 patent further requires that the clasp is spaced from the book support platform. (Dukelow Decl., Exh. 1 at claim 1.)

7. The claim of the '840 patent further requires that the book holder is adjusted to a reading position by the telescoping arrangement axially adjusting the spaced relation between the book support platform and the clasp (Dukelow Decl., Exh. 1 at claim 1.)

8. The claim of the '840 patent further requires that the book holder is also adjusted to a reading position by the pivotal connection on the book support platform pivotally adjusting the front surface with respect to the arm. (Dukelow Decl., Exh. 1 at claim 1.)

9. The book holder as claimed in the '840 patent is depicted in the figures of the '840 patent as shown in the following chart:

Claim element required by the '840 patent	Figures of the '840 patent as described in the patent
<p>The book support platform (12 or 412) is spaced from a clasp (15, see below);</p> <p>the book support platform (12 or 412) is attached to an arm (14 or 414);</p> <p>the clasp (15, Figs. 1, 4, and 5) is spaced from the book support platform (12 or 412) and is on the first end (23 or 73) of the arm (14 or 414).</p>	 <p>Fig. 1</p>
<p>A second end of arm (14 or 414) is pivotally attached to the book support platform (12 or 412);</p> <p>the arm (14 or 414) includes a telescoping arrangement (32 or 415) between the first end (23 or 73) and the second end of the arm (14 or 414);</p> <p>as stated above, the clasp (15) is spaced from the book support platform (12) and is on the first end (23 or 73) of the arm (14 or 414).</p>	 <p>Fig. 4</p>

Claim element required by the '840 patent	Figures of the '840 patent as described in the patent
<p>The book holder is adjusted to a reading position by the telescoping arrangement axially adjusting the spaced relation between the book support platform (12 or 412) and the clasp (15).</p>	 <p>Fig. 4</p>
<p>The book holder is also adjustable to a reading position by the pivotal connection on the book support platform pivotally adjusting the front surface with respect to the arm.</p>	 <p>Fig. 4</p>
<p>The book holder is also removably attached by the clasp 15 which also requires a clip head (79, Figs. 5 and 8), a clip body (78 and/or 101, Fig. 5) and</p>	 <p>Fig. 5</p>

Claim element required by the '840 patent	Figures of the '840 patent as described in the patent
<p>a pair of resilient clip arms (74a, 74b, Figs. 4, 5, and 8),</p> <p>the clip arms must be adjustably mounted (Figs. 5 and 8) on the clip head, and</p> <p>the clip head must be attached to the clip body (Fig. 5).</p>	<p>Fig. 8</p> <p>Fig. 5</p>

(Dukelow Decl., ¶ 4.)

10. The specification of the '840 patent states that “[t]he prior art does not accommodate easy and quick attaching the book support onto a structure for mobile use. Thus there is a need for an improved Book Holder that is quickly and easily clipped to a mobile vehicle such as a wheelchair or stroller for holding the book in a reading position in spaced relation to the clip.” (Dukelow Decl., Exh. 1 at 1:55-61.)

11. The specification of the '840 patent states that “[i]t is an object of the present invention to provide a book holder that can be easily and removably attached to and removed from a bar or portion of the mobile vehicle without tools.” (Dukelow Decl., Exh. 1 at 1:64-67.)

12. The specification of the '840 patent states that "[i]t is an object of the present invention to provide an adjustable clasp for attaching the book holder to the mobile vehicle easily and quickly attach or detach the book holder." (Dukelow Decl., Exh. 1 at 2:1-4.)

13. The specification of the '840 patent states that "[i]t is another object of the present invention to provide a clasp comprising a clip having an adjustable, resilient arm for removably attaching to a mounting structure on the mobile vehicle." (Dukelow Decl., Exh. 1 at 2:22-25.)

14. The accused VeriFone product is a mount for an electronic display in a taxi cab. (Declaration of Avi Itzhakov ("Itzhakov Decl."), ¶ 2.)

15. The mount of the accused VeriFone products is riveted to the upright partition between the front and rear seating areas of the cab, which fixes the mount in position relative to the partition. (Itzhakov Decl., ¶ 3.)

16. The electronic display is held in the mount by pins at the top and bottom of the mount that act as stops to prevent removal of the display. The display itself is allowed to pivot slightly with respect to the mount. (Itzhakov Decl., ¶ 4.)

17. The accused VeriFone products do not have any of the following features, which are claim limitations of claim 1 of the '840 patent:

- a. a book holder for removable attachment;
- b. a book support platform with a plurality of clamps disposed on the front surface of the platform to engage and retain a book;
- c. a clasp for removable attachment of the book holder with:
  - 1) a clip body, or

- 2) a clip head attached to the clip body, or
- 3) resilient clip arms adjustably mounted on the clip head; or
- d. an arm with a telescoping arrangement between a first end and a second end, with:
  - 1) a clasp on the first end or
  - 2) a book support platform pivotally attached to the second end; or
- e. the clasp spaced from the book support platform; or
- f. the book holder is adjusted to a reading position by the telescoping arrangement axially adjusting the spaced relation between the book support platform and the clasp and the pivotal connection on the book support platform pivotally adjusting the front surface with respect to the arm.

(Itzhakov Decl., ¶ 5.)

DATED this 20th day of April, 2012.

Respectfully submitted,

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